IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 29673 of 2007
and
SPECIAL CIVIL APPLICATION No. 29674 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE MD SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VASUMATIBEN RATILAL SHAH & 1 - Petitioner(s)
Versus
THE STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR UMANG K CHOKSI for Petitioner(s) : 1 - 2.
Mr A A Dave, Asstt.GOVERNMENT PLEADER for Respondent(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE MD SHAH

Date : 20/12/2007

COMMON ORAL JUDGMENT

1. Rule. Learned AGP waives service of Rule for the respondents.

2. By way of these petitions, the present petitioners have challenged the impugned order passed by respondent No.3, dated 1.1.2004.

Heard the learned advocate for the petitioners and Mr A.A.Dave, learned AGP for the respondents.

3. It is submitted by the learned advocate for the petitioners that, without giving any details regarding determination of market value, in printed form, order was passed by the Dy. Collector, Stamp Duty Office, Ahmedabad in a casual manner. It is submitted by him that after taking into consideration certain principles regarding determining the market value of the land, he has passed the impugned order on the basis of which the respondent No.3 has valued the property at a higher rate and, therefore, deficit Stamp Duty and fine of Rs.250/- was required to be paid to the authorities. Therefore, it is prayed that the decision of the respondent authority is required to be quashed and set aside.

4. In support of his submission, the Learned advocate has placed reliance on the following decisions of this court:

(1) 2003 (1) GLR 454 vol.44 (Pradhyaumanbhai Mohanlal Patel v. State of Gujarat

(2) 2006 (3) GLR 2252 (Mayurkumar J Patel v. Dy.Collector, Stamp Duty Valuation Department, Rajkot)

In the above decisions, it is held by this court that without giving any reasons and without applying mind towards any of the defences raised by the petitioners therein, in printed format the impugned order has been passed wherein some gaps have been filled in and one and two sentences have been added. It is also held by this court that it is the duty vested in the respondent authorities to justify its say for higher market value for the land in question, and thus, the order in question was quashed and set aside by the court in the aforesaid decision.

5. According to the learned AGP, the orders passed by the authority is correct and in consonance with the facts of the case.

6. Considering the facts and circumstances of the case, it is apparent that the impugned order is in printed form and only some gaps have been filled up by the authorities without giving any reasons. This clearly shows total non-application of mind on the part of the respondent- Authorities. Under these circumstances, the impugned order is required to be quashed and set aside.

7. In the result, the petitions are allowed. The impugned orders in both the matters are quashed and set aside. Consequently, the matter is remanded to respondent No.3 for taking fresh decision and for passing a speaking order as per the Act, after giving an opportunity of being heard to the petitioners. Respondent No.3 is directed to dispose of the matter accordingly, within a period of three months from the date of receipt of the writ of this order.

Rule is made absolute to the aforesaid extent. No order as to costs.

[M.D. SHAH, J.]

msp